

Meeting of 1997-7-22 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
JULY 22, 1997 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

John T. Marley, Mayor, Also Present:  
Presiding Gil Schumpert, City Manager  
Felix Cruz, City Attorney  
Brenda Smith, City Clerk

The meeting was called to order with invocation by Rev. Ed Davis, Barnett Chapel AME Church, followed by the Pledge of Allegiance. Notice of meeting and agenda were posted on the City Hall bulletin board as required by State Law.

ROLL CALL

PRESENT: Jody Maples, Ward One  
Richard Williams, Ward Two  
Jeff Sadler, Ward Three  
John Purcell, Ward Four  
Robert Shanklin, Ward Five  
Charles Beller, Ward Six  
Carol Green, Ward Seven  
Randy Warren, Ward Eight

ABSENT: None.

PRESENTATION OF EMPLOYEE OF THE MONTH AWARD TO SANDRA RENCH, CITY CLERKS OFFICE

Brenda Smith, City Clerk, introduced Sandra Rench, Deputy City Clerk, as Employee of the Month. She noted that the nomination for the award was made by the City Attorney, and outlined tasks performed by Rench. Smith expressed appreciation for the work done and said Rench is very deserving of the award.

Mayor Marley said he and the City Manager appreciated the work and presented a plaque from T & S Printing, a Certificate of Honor and two non-chargeable days off from the City. The following local merchants were recognized: Goodyear Store, oil change; Holiday Bowl, three games; Calico County, dinner for two; Video Triple Theater, two tickets; Chimney Sweep, inspection.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL SPECIAL MEETING OF JULY 2, 1997, AND REGULAR MEETING OF JULY 8, 1997.

MOVED by Green, SECOND by Purcell, to approve Minutes of July 2 Special Meeting. AYE: Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

MOVED by Warren, SECOND by Maples, to approve Minutes of July 8 Regular Meeting.

Shanklin said Page 68 shows \$85,000 was transferred, and \$25,000 came from Council Contingency. He asked if that gets put back in that account. Schumpert said that did not affect the Council Contingency for FY 97-98. Shanklin asked if \$25,000 was left in Council Contingency from 1996-97 budget year. Schumpert said whatever was left was rolled over to the new year, and that amount may have been left and transferred, but it does not affect the 1997-98 Council Contingency amount available.

VOTE ON MOTION: AYE: Sadler, Beller, Warren, Maples, Williams. NAY: None. ABSTAIN: Purcell, Shanklin, Green. MOTION CARRIED.

AUDIENCE PARTICIPATION: No one appeared to speak.

## UNFINISHED BUSINESS:

1. Consider adopting an ordinance amending Chapter 5, Lawton City Code, 1995, relating to animals. EXHIBITS: LIST OF TASK FORCE MEMBERS; RECOMMENDED CHANGES. (ORDINANCE NO. 97-33 ON FILE IN CITY CLERKS OFFICE)

Schumpert said the proposed ordinance had been reviewed by the Animal Task Force, which was chaired by Councilman Beller. He reviewed four additional changes as follows: Page 4, lines 1 and 2, strike "physical" from line 1 and leave it on line 2; Page 8, lines 14 and 16, "bears" on line 14 should have been moved to line 16 after "rhinoceroses" instead of being deleted; Page 17, line 40 and Page 18, line 1, the definition for "run" was added on Page 3 and had to be identified in the ordinance; and Page 1 on the Schedule of Fees, Section 5-118, fee should be \$5.00 instead of \$1.00 as printed.

Beller recognized the following Task Force committee members: Rose Wilson, Animal Shelter Supervisor; Tony Lopez, Animal Control Officer; Dr. Joe Kiehn, Veterinarian; Dr. Haney, Veterinarian; Jack Mortel, VAPs organization; Bill Coke, Sprucewood Dog Training Association; Ted Evans, Health Department; Carles Sowers, City Recreation Board; Linda Reinwand, Humane Society; and MAJ Stan Smith, Fort Sill Animal Clinic. He said two meetings were held and all pertinent changes to the ordinance were discussed. The most substantial change was made in the number of animals an owner may have. A special handlers license is included for those who own four or more, but less than seven, dogs or cats, or a combination thereof. Beller said the Task Force discussed the numerous changes and he commended Ms. Wilson for her efforts in this regard.

Beller said the Task Force worked with those who show and train dogs and that the ordinance is something that all can live with. He said the fee structure was changed to require payment of \$50 per animal per year for all animals above three. Beller said Ms. Wilson felt that was a reasonable figure, although some may wish to express their concerns about the fees. He said he felt it would strengthen the ordinance because there must be a way to contain the numbers of animals in a given home; animals must be with people who care about them and there was concern about the welfare of the animals and whether people can financially afford to have that many animals.

Beller said there was concern from Dr. Beavers about animals being chained, and there circumstances at times that would require that an animal be chained. He said a provision was included to allow people to chain an animal only when authorized by an Animal Welfare Officer or the Animal Welfare Supervisor, so it can be done, but that concurrence must be obtained. Other changes were minor in essence. The Task Force voted 7-1 to present the ordinance as shown tonight.

Maples asked which member disagreed and why. Beller said Mr. Bill Coke objected to the limit on the number of animals and felt that having a limit would be depriving him of a civil right.

Maples said a statement was included that the redemption fee was being changed to equal that of the adoption fee, but the fee schedule shows the redemption fee at \$40 and the adoption fee at \$15. Mike Shaw, Public Works/Engineering Administration, said the license fee is \$15, the adoption fee is \$15, and the redemption fee will be \$40, plus the \$15 for licensing. When an animal is adopted, the person must put up a \$35 deposit for neuter/spay, which is a State requirement. Maples said that is not stated in the resolution but language is included that says the redemption fee will equal the adoption fee. Shaw said that is a total, combined situation, and a person must have a license if they adopt an animal. Schumpert said the redemption fee is equal to the total cost of adoption, which includes the adoption fee, the license, and the neuter/spay deposit. Maples asked if the adoption fee would be \$15, plus \$40, plus \$35. Shaw said the neuter/spay fee is included in the \$40. Schumpert asked if he came in to get an animal, would he pay \$15 for adoption, \$15 for license, \$35 for a neuter/spay deposit, for a total of \$65 to adopt a dog. Shaw said yes, and that the neuter/spay deposit can be refunded upon presentation of proof that was done. Schumpert said the net charge for adoption is \$30 and the net charge for redemption is \$40. Shaw agreed, and said the redemption now costs a minimum of \$135 if the dog did not have a license or vaccination.

Mayor Marley suggested changing it say adoption fees, instead of fee. Maples asked what the ordinance language was. Beller said 5-118 says the adoption fee is \$15, but redemption would be \$40. Cruz said that is from the fee schedule. Cruz read 5-118 of the proposed ordinance as follows: the owner will be entitled to resume possession of any impounded dog or cat or other small animal kept as a house pet, except as hereinafter provided, provided in the case of certain dogs, cats or other small animals kept as house pets, upon compliance with the vaccination provision of this code and upon payment of impoundment fees as provided in this code, and upon payment of the shelter boarding fees. Cruz said Maples was reading from an explanation of the section. Maples said the explanation is not correct.

Maples said it appeared a person could get a license if they wished to have between four and seven animals, and it would be a special handlers license. She asked if the fee would be \$50 per animal per year. Beller said yes, for each additional animal after three. Maples disagreed with that portion.

Shanklin asked if the special handlers portion was new and Beller said yes. Shanklin asked if a person was allowed

to have eight animals and Beller said seven. Shanklin asked if a person having eight or more would have to have a kennel license and Beller said yes. Beller said a kennel cannot be in a residential area.

Beller said the reason for the special handlers license was to accommodate those who have show dogs, who are dog handlers, and who are currently in violation because they have four, five or six animals. He said it was the consensus of the committee that the \$50 would keep those who had no business with six or seven dogs from having six or seven dogs. Beller said those who had show dogs that were well worth the money, the \$50 would be a reasonable fee, and that he could look at it either way.

Maples said she knew people who were not showing dogs, but loved dogs and took very good care of them, but would not be able to afford \$50 per animal per year. Beller asked how they would be able to afford to have seven dogs in such a case. Maples said she could agree if it was \$50 total, but not for each animal or for each year.

Purcell asked for clarification on the fees that were being proposed. He asked if a person having three dogs would pay \$45 total for lifetime, until change of ownership. If there are seven dogs, the first year, the person would pay \$45 for the first three, and for the last four, it would be \$50 each, or \$200, so it would be \$245 the first year. Shaw said it is \$15 for the regular license, plus \$50 for the special handlers license, so it would be seven times \$15, plus the \$200. Purcell said a person having seven dogs would pay \$305 for year one; year two would cost \$200. Shaw agreed. Shanklin asked if the committee agreed to that and Beller said the vote was 7 to 1 to recommend approval.

Green said citizens need to be made aware of the changes in the areas of requiring shade from the sun and allowing a dog to be chained in the yard only upon authorization by an Animal Welfare Officer. She said the \$10 drop off fee should be cut out because citizens drop off strays they have found and should not have to pay. Shaw said citizens should not be charged for dropping off strays; if it is their own animal, there is a charge. Shaw described situations where it would be permissible to have a dog chained for a short time.

Maples asked if the dog run required 150 square feet. Shaw said 100 square feet. Shanklin asked if there was any debate on a tether run. Beller said it was discussed and it is not allowed because the animal would not have shade, or if it did, it could get tied around a pole or other object.

Mayor Marley said he agreed with Green that the changes need to be well publicized.

MOVED by Beller, SECOND by Purcell, to approve Ordinance No. 97-33 relating to Animals, amending Chapter 5, Lawton City Code, as amended by Ordinance No. 95-26 and 96-20, waive the reading of the ordinance, read the title only.

(Title read by Clerk) ORDINANCE NO. 97-33

AN ORDINANCE RELATING TO ANIMALS, AMENDING CHAPTER 5, LAWTON CITY CODE, 1995, AS AMENDED BY ORDINANCES 95-26 AND 96-20, RELATING TO DEFINITIONS; CARE AND TREATMENT OF ANIMALS; IMPOUNDMENT AND RELEASE OF ANIMALS; LICENSING; ADOPTION OF ANIMALS; PROHIBITION OF DOGS FROM CERTAIN PARK TRAILS; SPAYING AND NEUTERING OF CATS AND DOGS; KEEPING AND MISTREATING OF ANIMALS; RESTRAINING OF DOGS; PROHIBITION, REGISTRATION AND CONFISCATION OF DANGEROUS DOGS UNDER CERTAIN CONDITIONS; RABIES AND RABIES CONTROL; KENNEL AND ANIMALS PERMITS; LICENSE OF DOGS AND CATS; AND PROVIDING FOR SEVERABILITY.

VOTE ON MOTION: AYE: Purcell, Shanklin, Beller, Green, Warren, Williams, Sadler. NAY: Maples. MOTION CARRIED.

2. Consider adopting a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, amending fees relating to animals and providing an effective date. EXHIBITS: RESOLUTION NO. 97-89.

Schumpert said there is a correction in 5-118 where the \$1.00 fee should be \$5.00.

Maples said the redemption fee and special handlers fee should be no more than \$20 each. Shanklin said he felt \$20 was appropriate because people may not comply if it is \$50. Purcell said he supported the \$20 redemption, but felt the \$50 on special handlers was reasonable due to the need for control. Beller said consideration should be given to the impact this will have on funding for the Animal Shelter. Maples said it is a service agency and not a revenue producing operation. Beller asked a cost estimate on reducing redemption fees. Maples pointed out there has not been a special handlers fee in the past, so that revenue was not anticipated.

Shaw said the redemption fee has gone from \$135 minimum to \$40. Maples said many do not pick the animals up because they cannot afford it. Shaw said that was one of the reasons for the proposed change. Shaw said they were not looking at the rates from a standpoint of generating revenue, but to cause people to be responsible for the animals. He said it was felt that if a \$50 fee was charged for animals four through seven, people would take care of the dogs and not let them run loose; also on redemption, we are looking for responsibility but trying to help the citizens by going from \$135 to \$40. Shaw said people come in on a daily basis to get their animals and when they

find the fee will be \$135, they say take the dog, they do not want it, so the dogs are euthanized. 6,000 to 8,000 dogs and cats per year are euthanized and this is an attempt to make it more economical for people to redeem their dogs and cats.

Maples said those who own more than three animals are being punished for someone who is not responsible. She said she knew many who owned more than three animals who could not afford the \$50.

MOVED by Maples, to reduce the fees in 5-118 on dogs and cats from \$40 to \$20, and the special handlers fee on 5-501 from \$50 down to \$20. MOTION DIED FOR LACK OF SECOND.

MOVED by Beller, SECOND by Warren, to adopt Resolution No. 97-89, amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, amending fees relating to animals and providing an effective date.

Shanklin said he strongly supported the \$20 for the special handlers, because the \$50 would make cheaters out of people where you would not on the \$20. He said he hoped we were not trying to make this a revenue production method.

Beller said the purpose of the \$50 special handlers fee was to discourage those who should not have six or seven dogs. He said it is a tremendous burden to take care of one dog, and if you have six dogs, it is six times the problem. He said many do not take proper care of the animals and it causes health problems. The purpose of the \$50 was to preclude that from happening.

SUBSTITUTE MOTION by Maples, that on 5-118 we reduce that fee from \$40 to \$20, and the special handlers fee from \$50 to \$20. SUBSTITUTE MOTION DIED FOR LACK OF SECOND.

SUBSTITUTE MOTION by Shanklin, SECOND by Maples, to reduce the special handlers license for those between four and seven to \$20, and adopt the remainder as shown. AYE: Shanklin, Maples, Sadler. NAY: Beller, Green, Warren, Williams, Purcell. SUBSTITUTE MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Beller, Green, Warren, Williams, Sadler, Purcell. NAY: Maples, Shanklin. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-89

A RESOLUTION AMENDING APPENDIX A, SCHEDULE OF FEES AND CHARGES, LAWTON CITY CODE, 1995, AMENDING FEES RELATING TO ANIMALS AND PROVIDING AN EFFECTIVE DATE. (Effective date is August 23, 1997)

3. Reconsider an ordinance amending the Land Use Plan from Residential-Multi Family to Commercial and Office and changing the zoning from C-1 (Local Commercial District) to C-4 (Tourist Commercial District) zoning classification located at 302 NW Rogers Lane. EXHIBITS: ORDINANCE NO. 97-34; LOCATION MAP; SITE PLAN; LETTER AMENDING REQUEST; LMAPC MINUTES. (APPLICATION, PETITION, LETTERS OF OPPOSITION IN CITY CLERKS OFFICE)

Bob Bigham, City Planner, said the Council held a public hearing on this request at the May 27 meeting and a motion was made to adopt the ordinance for a 100 x 100 foot tract. In accordance with Section 5D of the Council Rules of Procedure, the item was automatically returned for consideration because some members were absent. The item was tabled at the June 10 meeting at the request of the applicant. The original request was for a 1.3 acre tract in the area west of Sneed Acres, south of Rogers Lane, and Fort Sill is to the north. The LMAPC held a public hearing on April 23; 28 letters of notification were mailed to owners within 300 feet. During the LMAPC hearing, the applicant, Mr. R.E. Stevens on behalf of Dr. Gibson, modified the rezoning area to only the north 100 feet of the tract. Originally the tract was 200 feet deep by 300 feet, so the request was modified to the north half of the tract.

Bigham said a petition of protest was received representing 38% of property owners within 300 feet; the petition contained 88 signatures with the majority being residents of the Sneed Acres area. City Clerks Office received seven letters opposing the request. The ordinance in the agenda folder reflects the north 100 feet of the original request. Purcell asked if it was 100 by 300 and Bigham said yes, it is 100 by 300.

Mayor Marley said some persons in the audience would like to speak and Council agreed to receive comment. Mayor Marley suggested the comments be kept short and not be redundant since this has been heard before.

Tommie Johnson, 211 NW Mimosa, said each member received a copy of a letter from Jim Harris to Dr. Gibson dated July 18. The last sentence of the third paragraph states that it is Gibsons understanding that there would be no protest from the Sneed Acres group at tonights meeting on the zoning change. She said that is partly true and that they are still opposed to the east 150 feet or 100 feet located on the 100 by 300 foot piece of property. Johnson said the reason for that opposition is that if it is not rezoned, there would be no need to cut down a grove of trees which act as a sound barrier and protection from the highway. She said they would like to believe that Citizens

Bank would work with them and not cut down the grove of trees; however, if the entire area is rezoned, it could be sold tomorrow and then Citizens would have no say about it. Johnson asked that the entire 100 by 300 foot strip not be included for rezoning, but maybe 100 by 150.

Rexine Gibson said she represents the Habitat. She asked that the property not be rezoned but remain C-1, and let the owner use the property as he desires within that classification. Gibson said if any rezoning is approved, she would request it not exceed 100 by 100 to allow for the billboard and that she would not object to that. She asked if the members who voted last time would have their vote remain the same or if it would be a complete new vote, or just a vote by the two who were absent. Mayor Marley said it would be a complete vote of the Council.

Dr. Gilbert Gibson said his glasses looked like Bellers. Beller said they also thought alike. Gibson said he represents Citizens Bank and has owned the property for about ten years. He said they had tried to determine what to do with it, and the property has ended up being a drainage ditch for the water that accumulates on the north side of U.S. 62 from the old post airport, so this was the only thing they could figure out to do with the property. Gibson said they did not want to do anything that would be offensive to anyone in the neighborhood and had demonstrated their interest in doing things that looked nice for the community. He asked consideration for the 100 by 300 foot tract and said it should work out for them, as well as the residents. Gibson said interest had been expressed by residents of Sneed Acres to buy the back half, and his response was they would sell it for the price that had been identified. He said he had talked with Bigham about a lot split there which did not seem to be a big problem. Gibson said they would do everything they could to have an aesthetically pleasing area.

Maples asked Gibson if the signs could be built on the 100 by 150 foot portion. Gibson said they needed the entire thing because they might put in more than one sign. Maples asked if the trees would be cut down if the 100 by 300 foot tract were rezoned. Gibson said it was not his desire to cut trees down, but the current zoning does not protect the trees. He said to be able to use property, many times you must remove some trees. Gibson said the trees that protect the neighborhood are located on Marion Cooks property. He said he would not say specifically that they would not be removed now or if the zoning were changed.

Beller said he had never seen Dr. Gibson involved in anything where he did not consider what was in the best interest of the community. He said trees had to be removed to build homes in Sneed Acres, and Gibson would probably keep as many trees as possible, but the trees do not have a bearing on the use of property by its owner. Beller said we would all like the trees to be there, but if you have to remove a tree to accommodate what needs to be done, economically, you would have to remove a tree. He said he did not think a person should be asked to allow a tree to remain if it would prevent use of the property to its best advantage.

Williams said this is in Ward 2 and that he had spoken with a group of residents, as well as one of the persons who has been talking to Citizens Bank about purchasing the back half of the property. He said his position remains the same as it was when this came before Council a few weeks ago. Williams said everything Mr. Stevens had promoted at that time identified one billboard on the west end of the property. He said he told the group he would be in favor of rezoning the full frontage provided that the sale of the back half would go through to whatever group. Williams said it was still his position to support rezoning only enough of the 100 by 300 to accommodate one billboard. He said the motion previously was for 100 by 100 on the west end.

Purcell said he originally supported 100 by 300, but Stevens said he could accomplish what he needed with 100 by 100. He said if the 100 by 300 on the rear is purchased by the residents, there is nothing that could ever be built on that land because it will be too small. Purcell said the current zoning would allow for uses which, in his opinion, were much worse than billboards.

Shanklin asked how far the second sign would be from the east side of the property and if they would be built to be seen from both directions. Dr. Gibson said yes, and he could not say where they would be exactly positioned exactly, but that he would comply with the code requirements. Dr. Gibson said they did not wish to have anything that would be obtrusive to anyone.

MOVED by Beller, SECOND by Purcell, to approve Ordinance No. 97-34, amending the 2020 Land Use Plan from Multi-Family Residential to Commercial and change the zoning from C-1 to C-4 zoning classification on the north 100 feet of the property located at 302 NW Rogers Lane, and to clarify, it would be 100 by 300 feet, waive reading of the ordinance, read the title only.

SUBSTITUTE MOTION by Williams, SECOND by Maples, to approve Ordinance No. 97-34, as previously stated, only to incorporate the 100 by 100 feet portion on the west end of the property.

Dr. Gibson said that is not their request and they need the 100 by 300 feet portion. Mayor Marley said that was the original motion.

(Title read by Clerk) ORDINANCE NO. 97-34

AN ORDINANCE AMENDING THE 2020 LAND USE PLAN AND CHANGING THE ZONING CLASSIFICATION OF THE TRACT OF LAND WHICH IS HEREINAFTER MORE PARTICULARLY DESCRIBED IN SECTION TWO (2)

HEREOF FROM THE EXISTING CLASSIFICATION OF C-1 (LOCAL COMMERCIAL DISTRICT) TO C-4 (TOURIST COMMERCIAL DISTRICT) ZONING CLASSIFICATION; AUTHORIZING CHANGES TO BE MADE IN THE 2020 LAND USE PLAN AND UPON THE OFFICIAL ZONING MAP IN ACCORDANCE WITH THIS ORDINANCE.

VOTE ON SUBSTITUTE MOTION: AYE: Maples, Williams, Shanklin. NAY: Green, Warren, Sadler, Purcell, Beller. SUBSTITUTE MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Warren, Maples, Sadler, Purcell, Beller, Green. NAY: Williams, Shanklin. MOTION CARRIED.

BUSINESS ITEMS:

4. Hold a public hearing and consider an application for a Certificate of Public Convenience and Necessity for Presidential Limousines of Texas, Inc. to operate taxi cabs in Lawton. EXHIBITS: APPLICATION; CITY CODE PROVISIONS.

Schumpert said staff has made no recommendation and has presented the necessary information.

Shanklin said about ten years ago there was a move to bring in an outside ambulance service and some Council members wanted to restrict it. He said the response from the legal department at that time was that the Council could not restrict free enterprise. Shanklin asked how this was different. Cruz said the Health Department at that time was the regulatory agency for ambulance service and the City's powers for regulation were limited. Cruz said Title 11 authorizes Council to regulate taxicabs and an ordinance was adopted many years ago providing for regulation and certificates of necessity if there is a need for additional taxicabs.

PUBLIC HEARING OPENED.

Steve Newcombe, attorney for Jimmie Thompson, owner of Busy Bee, Yellow, Radio, Checker, and Safety Cabs, spoke in opposition to the application. He said according to the ordinance, the question the Council must consider is whether there is a need for additional taxicab service in Lawton, and in making that find, the Council shall take into account the number of taxicabs already in operation.

Newcombe said there are presently 206 authorized permits to operate taxicabs in Lawton and Fort Sill. He said there are only 125 permits actually being used because there is not a need for more taxicabs to be in operation at this time. Newcombe said there had been downsizing at Fort Sill, and those persons are very important to the taxicab business, and approximately 81 of the currently issued permits are not being used at this time. He said based on those figures, there does not appear to be a need for more.

Newcombe said the other standard the Council shall consider is whether the existing transportation is adequate to meet the public need. He said to his knowledge, the needs of the citizens are adequately being met, so that criteria has not been established either. Newcombe said another criteria is the effect on local traffic conditions, and that is an entirely subjective point and an argument could be made that additional taxicabs could be a drain on the use of the streets. He said Council is to consider the character, experience, and ability of the applicant, and that he had no personal knowledge in that regard.

Newcombe said it is Mr. Thompson's position that there is not a need for any additional taxicab service in Lawton; all the permits are not being used at the present time. He said under the ordinance, he did not feel it would be appropriate for Council to approve the application.

Terry Jones said he is with Peoples Cab Company, which consists of those in the audience wearing the red and white shirts. He said they opposed another company. Jones said they are authorized 23 slots but only have 13 vehicles running, and would have less if another company came in. Jones said they had spent a lot of money getting their company running. He said with the decrease in troop strength at Fort Sill, there is not a need for another cab company. Jones said a bus system may be established within the next two years, which would take business from the cab company. He said another company would mean less income for Peoples Cab, and their insurance currently costs \$3,000 per year per vehicle, and that they would not be able to survive. Jones said their position is that they would like not to have another cab company in Lawton at this time.

Jody Wade said he was representing Presidential. He said he respected those currently in business but that they had presented a brief market plan in the application. Wade said Presidential provides services to the handicapped, providing lifts, as well as taxicabs, charter buses, limousines, and other types of special service vehicles. He said their services are offered throughout the State of Texas and are a very professional company. Wade said they had set a target to look at areas lacking in transportation services that should be brought to standards. He said previous speakers had talked about numbers of cabs. Wade said their market study had found that if there were more quality vehicles to service the senior citizens, non-profit organization, and the general public, there would be more of a need for the service.

Wade said he believed staff had contacted the City Manager in Wichita Falls regarding their company. He said Wichita Falls was in a similar situation as Lawton is today. Wade said he had spoken with Lawton residents and found no one who felt the vehicles used by cab companies did not need to be updated. He said their plan, and his promise, was that his company would not operate any vehicle older than a 1992 model in their fleet. Wade said this is how they operate in Wichita Falls, and their units are all the same make, model, color scheme and insignia.

Wade said cities the size of Lawton are focusing on business and industry recruitment and increasing services to get these types of industries to come in that would generate tax dollars. He said transportation is a very important factor in recruiting business and maintaining a positive image. The first and last impression a visitor has of a city is the airport and the taxicab they rode in, so the quality of the transportation is very important to the city.

Wade said they currently operate a shuttle service from Wichita Falls to Oklahoma City three times a day, and that could include Lawton. He asked that the request be improved and that Council consider the image being portrayed by the transportation being currently provided. Wade said the certificate of necessity comes back to the quality of the vehicles; some citizens do not approve of older vehicles. He said the university is growing and the military base has a very stable population, and there is a need for transportation to many cultural activities.

Purcell asked how many vehicles they would have to accommodate handicapped persons. Wade said he could not give an exact number, but that it would be based on the need, and that he had spoken with local hospital officials who indicated there was a dire need for that service. Wade said the current plan is to place two handicapped equipped vehicles here. Purcell asked if there would be a minimum of two and Wade said yes.

Lonnie Whatley said he has had the contract at the Lawton-Fort Sill Airport for the last 12 years. He said he is familiar with the quality of the service provided, and that many times when a field grade officer comes in, he would like to put him in a taxi rather than their van or bus, and they are limited in resources. Whatley said he has probably used each cab company represented tonight, and each time there are disappointments, not with each case, but disappointment. He said the large number of cabs is not the issue, but it is more the type service you expect and the quality, appearance and punctuality. Whatley said if there is a cab you would put your mother in, it would be a good cab. He said the service provided reflects on the City, and denying competition will not help upgrade the system, but increasing competition will provide better quality.

Beller asked who Mr. Whatley was with. Whatley said he owns Sunshine Charters and has operated at the Lawton Airport Authority for the last 12 years. Beller asked Whatley if he had any taxi cabs. Whatley said no, he hires them to support the troops at Fort Sill. Beller asked if Whatley had told the Airport Authority that he could not afford to have the fees increased and Whatley said that was correct, and that they are extremely high.

Faye Thompson said she represented Triple A Cab Company and that she did not feel there was a need for additional cabs. She said they had 40 permits and are using 26 because Fort Sill is down and it is not necessary to have any more cars. Thompson said all of their cars are quality, late models, and that there is not a need for more cabs.

Newcombe said the County presently has vehicles to transport handicapped persons. He said none of the people Mr. Wade spoke with in the community are present to tell the Council what they feel is needed.

David Vance said he is a private contractor with Peoples Cab Company. He said there is a need for continual updating of equipment with cabs. Vance said Peoples Cab Company has no vehicles over nine years old and that they are constantly updating. He said if there is a concern regarding the quality, standards could be established for existing companies rather than allowing more companies to come in.

PUBLIC HEARING CLOSED.

Williams asked if anyone had checked with the Wichita Falls City Manager. Schumpert said not to his knowledge.

Beller said the ordinance provides the Council must determine there is a need for additional service, and with all the cabs the companies are operating, it is difficult to find that need. He said the ordinance provides that the Council will take into consideration the number of cabs already in operation, and if that is done, it is obvious there is not a need for another service. Beller said we are trying to get a bus service here and that would hurt the companies financially. He said many cannot afford a cab fee and the bus service is needed. Beller said he saw no necessity or need for another company.

Purcell asked how allowing another cab company to come in would be different from allowing another restaurant to operate under the concept of free enterprise. Newcombe said city police powers regulate public transportation and that his argument was based on the ordinance adopted to provide that regulation. Purcell asked if the need was determined in terms of numbers as opposed to quality. Newcombe said yes.

MOVED by Beller, SECOND by Green, to deny the application for a Certificate of Public Convenience and Necessity for Presidential Limousines of Texas.

Shanklin asked how many cabs are in operation in Wichita Falls. Wade said Wichita Falls has a large transportation system, and there are a total of 40 taxicabs, of which he held 78% of the permits. Wade said the shuttle service in Wichita Falls is triple that available in Lawton. Wade said federal law gives cities the authority to regulate taxicabs, and he read from that law stating in part that it respects the concept of free enterprise. Shanklin asked if there was only one cab company in Wichita Falls. Wade said there are two. Shanklin asked if there were only 40 cabs and Wade said yes.

Shanklin asked if Council had the authority to tell cab companies to upgrade their equipment. Cruz said Council does not have that authority under the code.

Williams said free enterprise works well and that he hated to see the government regulate certain things. He said his employer is about to move out of a highly regulated environment into an open competition setting. Williams said it all gets back to providing choices to the residents of the community, and that when that is not allowed, it is a disservice to the residents.

SUBSTITUTE MOTION by Williams, SECOND by Purcell, to approve the Certificate of Necessity to Presidential Limousines. AYE: Maples, Williams, Purcell. NAY: Sadler, Shanklin, Beller, Green, Warren. SUBSTITUTE MOTION FAILED.

VOTE ON MAIN MOTION: AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: Williams. MOTION CARRIED.

5. Hold a public hearing and adopt a resolution declaring the mobile home structure at 2310 SW Georgia Avenue to be dilapidated and detrimental to the health and safety of the community and authorize the expenditure of CDBG funds, if necessary, to demolish this structure. EXHIBITS: RESOLUTION NO. 97-\_\_\_\_.

Dan Tucker, Code Administration Director, presented a video of the property and said the mobile home is dilapidated, damaged, is not tied securely to the ground, and insulation is falling out. Equipment is stored on the lot with the mobile home. The lot has a mobile home permit although it is not currently valid. Tucker said the owners were trying to reach an agreement with someone to bring the mobile home up to speed and that a person is present to speak. Williams asked the staff position and Tucker said progress has been made in removal of trash and debris and mowing of the lot. The person negotiating with the owner has been in contact with Code Administration, although he is currently out of town due to health problems. Tucker said he had no major objection to tabling the item, but was hesitant to remove the item and start the process all over again.

PUBLIC HEARING OPENED.

Judy Barbee said she owns the property and leases it to the mobile home owner, who wants to renovate the mobile home. She said she spoke with the man two weeks ago, and he was going to the Veterans Hospital in Oklahoma City, and that she had not heard from him since. Barbee asked that the item be tabled until the man is able to return.

PUBLIC HEARING CLOSED.

MOVED by Williams, SECOND by Beller, to table the item until the August 12 meeting. AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

7. Determine whether to commence litigation against Frank Richards in order to seek injunctive relief to abate a public nuisance in the vicinity of 605 NE Flowermound Road, and, if so, authorize the City Attorney to initiate legal action to abate the nuisance. EXHIBITS: NONE.

Mayor Marley asked that Item 7 be considered at this time.

The following portion of the meeting is inserted verbatim:

Purcell: Well, I initiated this and Council I'd like to give you some history on this. About eight or nine months ago I receive a couple of phone calls concerning an 18 wheeler parked on this property. Specifically at that time it was an 18 wheeler that had a refrigerator unit of some kind on there, and it was going off and on all night long, keeping the residents in the trailer park awake. And I went down to visit some people at the trailer park to see why they were parking there, I checked with City staff and it was unauthorized parking at that location for 18 wheelers, so I went to the trailer park and at that time I thought it was part of the trailer park. I found out at that time that it did not belong to the trailer park, it belonged to Mr. Frank Richards.



I contacted Nick a couple times over the last eight to nine months. I talked to Nick Richards twice, I talked to Frank Richards twice, and I was still getting complaints from citizens, even though that particular kind of truck is no longer parking there, but some days there are one to two or three to four there. When it rains, mud gets tracked onto the road and for some reason that would start the phone calls again. I did not do very well with talking to Frank or Nick. I was getting very frustrated because in all honesty I was tired of the phone calls. The phone calls are what are you going to do, we elected you, we have to obey the law, we cant go downtown and park, why dont you give these guys tickets? Well, I think weve been through this before and I think the City Attorney can elaborate, because its private property, we do not have a right to go in and just issue a ticket as if someone parked downtown on a city street. The owner needs to do something about it, the owner of the property needs to do something to stop the vehicles from being parked there.

As the calls continued, I got more and more frustrated. It didnt do any good to talk to the principles. I then employed Joe Kiehn one night, he was here, explained the situation to him, I knew he was familiar with Mr. Richards, hes a former Council member, he agreed with me you have to respond something to the citizens. I asked him to talk to Mr. Richards. That didnt do any good. I then, trucks continued to be parked there, the calls continued to come in.

Meanwhile I talked to Dan Tuckers department and asked him to start issuing citations and unfortunately, or fortunately, there are, he cant go out there every single day, I mean we could spend almost every day going out issuing citations on this one, and Ill talk about the other one in a minute, but we come to a point of diminishing returns and he cant afford to keep doing that with his people, theres more important things to do and I understand that. I finally called Cecil Powell, asked Cecil Powell for some help. Cecil Powell said hed see what he could do. Still nothing happened, trucks continued to be parked there. Before I started this action on the injunction, I went to the City and said what are we going to do, we need to stop this issue.

To let you know, there are 17 cases set for pre-trial on 30 July, specific charges against violation of parking there. The problem is on 30 July, assuming there will be a request for a jury trial, that will go on the December docket, so now...

(Judge Harris spoke from the audience regarding the docket. His comments were not audible.)

Purcell: Im sorry, well, in September. Depending on what happens on that, if there could be an appeal and it would go to District Court and well be going on for another year before this is resolved. Meanwhile, people are still calling me on a weekly basis saying what are you going to do about stopping the violation of that law. If I was caught, Id be getting tickets. Why arent these people getting tickets and why arent you doing something about it? So I asked that we come up with a thing to come up with an injunction. We put this on the agenda. Theres obviously no attempt to comply with this for whatever reason. Last Sunday there were two 18 wheelers still parked there. Monday there were none. This morning there was a Beacons van still parked there. Weve got to get someones attention, or someone on the Council please tell me what I tell citizens when they call me as to what we are going to do as a City Council member in this City to enforce the law. And thats why Im asking for this injunction and I ask your support.

Sadler: One quick question, I may have misunderstood, at first I thought you said you couldnt ticket on private property and then what are the 17 cases that are going?

Purcell: You cant, the police cannot go and issue a parking citation, but were issuing citations for violation of City ordinance on parking 18 wheelers in an unauthorized location. Thats all we can do.

Cruz: Zoning violation.

Purcell: Zoning violation, whatever, thats all we can do, and we can keep doing this forever. The object is to get Mr. Richards to comply and stop all this nonsense but as of this date he just does not care to comply and I need some help.

Shanklin: What is the ordinance? Do you know it off the top of your head?

Purcell: Pardon me?

Shanklin: The ordinance itself.

Purcell: Dan, whats the ordinance that were violating?

Marley: I think its got to be hard stand, right? Is that not the essence of this, that it has to be a hard stand?

Tucker: It has to be an improved parking lot and it also has to be zoned properly.

Purcell: Section 18-804 of the Lawton City Codes whats in all the citations.

Tucker: It is Chapter 18 on zoning.

Shanklin: Well, where do we want them to park? Where is there a place for them to park?

Purcell: There are 18 wheeler parking down on Lee, theres the Sandpiper Inn, theres hard stand there where a lot of them park. I understand whats happening, some of them live there in the trailer park, and so its more convenient, I would assume they live in the trailer park, to park there. For those people, obviously they want to park there, but some of their neighbors dont want them parking there, thats the problem.

Marley: Yes.

Beller: I guess my question would be are they parking there with or without the permission of the owner. If theyre parking without the permission of the owner, wheres the responsibility? Does that not kind of open up some sort of legal...

Schumpert: If the owner, if theyre parking there without the permission of the owner what we have instructed the owners to do is if they would properly post it saying, and theres a signage with dimensions and all that, if you post that saying no parking, and thats in a violation of the City Code then the police officers can go on there and cite them for no parking. We would then cite the individual parking there, but as I understand at this location, the times Ive been there, it has not been signed such that we could do that so our only recourse is to cite Chapter 18, which is zoning. If its posted properly then police officers can enter and ticket the individual parking there.

Purcell: In answer to your question, and certainly Mr. Richards can get up and counter this if he wants to, I was told by the people in the trailer park that in some instances they are paying to park there, in which case theyre allowed to park, and other instances theyre not paying and then those possibly are removed by Mr. Richards, now, that may not be right, but thats what I was told.

Marley: OK, yes, Ms. Green.

Green: Those 30 violations, do you have the addresses on those, on those trucks?

Purcell: Yeah, theyre all at the same place, theyre at this one lot right outside the trailer park on Flowermound Road, theyre all at the same location.

Maples: But are they separate citations, I mean theyre separate citations, but are there 30 separate semis, or just the same semi numerous times?

Purcell: No, well, some of them are probably the same semis but there are numerous ones. As I say, some, they park there, some days theres four semis there. The next day, there may be two. The next day, there may be none. The following weekend, there may be two. A couple days later theres three or four different ones, so its a variety, and obviously in some of the citations, its got, I would assume its the same truck.

Maples: But John its not like, though, I mean theyre all parking in unison there, and its not like its a circus when you go out there, ones parking one way, anothers parking another way, ones parking half way out in the street.

Purcell: Oh, no, theyre all parking uniformly.

Maples: At least, yeah, theyre uniform, but the owner is OK with them parking there. I just dont want us to get in the position, I mean its bad enough we dont have, the semis cant park in the residential streets, and I support that. I wouldnt want to see a parking lot out in front of my residence either, but if they live there and its convenient for them, its not a, to me its not a sore sight or anything out there.

Purcell: Well, let me ask a question though, to counter that, from what Im getting from the citizen, if you had a lot, a vacant lot across from your house on your street, would you want six semi-trailers parked there on a regular basis?

Maples: Well, theyve been doing this for years.

Purcell: Fine, but Im getting the complaints from citizens who live around there, thats the problem. I dont care if they park there forever, but the citizens I represent are upset.

Marley: OK, thank you. Further comments, any comments?

Williams: What do other communities do, Mayor? Does anybody know about that?

Marley: Well, as we said theres a, really the problem as I understand it was the same type of problem they had at Branders where you had a lot of parking on unimproved lots. Its my understanding you can park there if its an

improved surface. Is that not correct?

Tucker: Yes sir, if the zoning is correct, and its an improved surface, you can park there, and we have commercial truck parking areas that people park in.

Maples: Let me ask the City Attorney something. If theyve been parking there for years, and weve known that this is happening, yet we havent enforced the code, have we set some precedence or anything?

Cruz: No maam. Enforce the code any time theres a violation.

Maples: Theyre not grand fathered in or anything?

Cruz: No, no maam.

Purcell: Id like to comment, I even mentioned to both Nick and Frank, if they didnt like the ordinance, to please come in and give me a rewrite of the ordinance and I would bring it before the Council and we could change the ordinance so you could park 18 wheelers wherever you want. I have not seen that. If we want to change the ordinance that allows 18 wheelers to park wherever, Id be glad to do something there and tell the citizens, Im sorry, you can have 18 wheelers parked wherever you want, but then you guys will start getting phone calls too, I hope, and I wont be the only one getting them. I dont know why Im so lucky to have two batches of 18 wheelers, because Ive got the next one too.

Green: Well, I have them.

Beller: Well, Mr. Mayor, if I may, to kind of get this thing off of dead center, is what we need tonight is to direct the attorney to take the appropriate action which Mr. Purcell has requested?

Marley: Correct.

Beller: And we, when it says determine that a public nuisance exists, how do we determine that?

Cruz: Based on the information that you received from Mr. Purcell today, and based on the information that you received from Mr. Tucker, you could determine that the public nuisance exists. I mean its an inconvenience to the public as a whole, not just to one individual.

Maples: OK, the inconvenience being its an eye sight sore?

Cruz: Inconvenience because of the noise, because of the environment.

Beller: Well, the refer running at night on an 18 wheeler, it is a noisy, noisy thing.

Purcell: In fairness, I dont think thats the issue any more, I really dont, the refer is no longer there, in all fairness, but thats what started this issue.

Shanklin: If youre sleeping outside I think it might probably create a problem.

Beller: Ive done that a few times.

Shanklin: I dont think I could do it. The only problem I have, the only problem I have with it, either enforce the ordinance or do away with it, and enforce them all, thats what bothers me is we dont enforce all the ordinances.

Beller: Well, let me ask this Mr. Attorney, should we at this time then authorize you to begin injunctive services against the property owner?

Cruz: I didnt hear you, sir.

Beller: Should we at this time make a motion to authorize legal action for injunctive services against the owner of the property?

Cruz: If thats what the Council wants to do, yes.

Purcell: I so move.

Beller: How else could we enforce the ordinance if we dont do this?

Cruz: If you authorize me to initiate this action in District Court, it will be to abate the nuisance and to, and an

injunction against the property owner.

Beller: And that is a proper course of action?

Cruz: Thats the proper course.

Maples: But can we also not direct the City Attorneys Office to rewrite the ordinance allowing this parking?

Cruz: Thats a separate action, yes.

Williams: You can do anything you want.

Shanklin: Then youre going to have to not let anybody park like they want to, excuse me, Ive got to finish this. I got accused and had an ad run against me at Mikes Grill, in case yall dont remember, I had nothing to do with it, but I want to get it on the record right now how I stand about that one is if youre going to go take them to court on this one, youve got to take them to court on the one on Mike Underwood, across the street east. That is not, does not meet city code, and if were scared of it, say so, if youre scared, say so, isnt that what you always say, Charlie?

Beller: Yes sir.

Maples: Wait, there was also a long list of businesses in town during that, the Mike Underwoods problem, he turned in a long list to City staff on businesses that were not in compliance with city code so how can you go after the Richards but yet were not going to go after the other ones? Its come to our attention...

Marley: Well, its up to the Council, a councilman has requested this action be taken. If there is a motion and a second, you can vote your conscience on whatever you want to do.

Maples: What Im saying, though, is its selective enforcement.

Purcell: Im sorry, it is not. Im enforcing it because I have citizens complaining. If you get phone calls from your citizens in your area that want it enforced, then call up and have it enforced.

Maples: John, what Im saying is, its been brought to Councils attention all these other businesses in town and were not taking any action on those. How can you not take action on everybody then?

Purcell: Lets take action on everyone.

Shanklin: He had a list. It doesnt mean it was correct. It was not correct.

Maples: Did we take any action and go and check on none of them?

Marley: Whoa, all right, some order. Yes, Mr. Purcell.

Purcell: Id like to make a motion that we determine that a public nuisance exists in the vicinity of 605 NE Flowermound Road and authorize the City Attorney to file for injunctive relief against Frank Richards, the property owner, in District Court.

Beller: Id second.

Marley: Thank you. Further comments?

Richards: Mayor, could I say one word?

Marley: Not unless the Council wants to hear it.

Maples: Sure, we listen to everybody else.

Shanklin: I have no problem with it.

Marley: Mr. Richards, please.

Richards: Im Frank Richards. I do own the property across from Mike and there is over 200 lots in this town exactly like Mikes. They have been parking there at Mikes...

Marley: Wait a minute, wait a minute, Mr. Richards, were talking about 605 Flowermound, not Mikes. This is not an issue for Mikes right now.

Richards: I thought you was talking about...

Marley: No sir, it came up, but the issue tonight is 605 Flowermound.

Richards: 605 Flowermound was at one time a mobile home sales yard, zoned for a sales yard, now I don't know what's happened since or anything about it, but we did at one time have a mobile home sales yard there, zoned for it. Thank you.

Williams: Question Mayor.

Marley: Yes.

Williams: By implementing this action, are we, what do we hope to accomplish? Are we trying to close the time frame as far as getting some action?

Purcell: What I hope to accomplish is to get Mr. Richards to stop parking 18 wheelers on that property as soon as possible because we'll be another year going through the court system and the people are still complaining. That's the only reason for this. If Mr. Richards would give this Council a written letter in open session that promises he won't park 18 wheelers, I'll withdraw the motion, but it's got to stop.

Shanklin: Well, let me ask you this, what if Mr. Richards lived in Little Rabbit, Australia, and he wasn't there to see it. Now how do we force him to keep them off there? He happens to be present, but what if he didn't live here?

Purcell: If Mr. Richards doesn't want them there, as I understand it, all he has to do is call the police department and have them removed.

Shanklin: But he's not available, he lives out of town, how then do we enforce it Mr. Cruz?

Marley: Well, that's a non-issue. I hear what you're saying, but that's a non-issue, we're here, he's here, let's stick to that particular issue and get a resolution one way or the other. Yes.

Williams: Question for the City Attorney. Felix, by implementing this action, are we going to be able to close that time frame to make these actions cease at this particular address?

Cruz: Do you mean, time frame shortening from up to three or four months, or something like that?

Williams: Yeah, give us an idea if we enacted this action this evening, we're going to be able to accomplish the goal that Councilman Purcell has set out any sooner?

Cruz: We may be able to accomplish the goal that Mr. Purcell has set out. How soon, I couldn't predict, that would be up to the court schedule, because if we have to go to the court, the hearing will be held and so it could be done maybe in two or three months or it could be six or seven months.

Williams: As opposed to the ordinances, or the action we've already got?

Shanklin: What we're going to court for is to determine whether or not our ordinances are legal.

Cruz: No sir.

Shanklin: Well that's what we need to be doing. I mean if you're just going to go to one address and then ignore all the others, why, I can't be for that, but if we're going to see whether or not our ordinance, we can enforce it, fine.

Cruz: No, in this action, it has nothing to do with the ordinance, in this action, it's a public nuisance, it's a declaration of the Council that a public nuisance exists and you, the Council, want to abate it through the District Court process. And if you approve that, then I will take the action, file the necessary paperwork, serve it on them, and as I say, it may take two or three months, maybe six or seven months.

Shanklin: The code has nothing to do with it then, our ordinance, code, the code doesn't have anything to do with it?

Cruz: No sir.

Shanklin: I don't see it. I don't see how we can enforce any of our codes.

Cruz: Now the enforcement of the code, as far as (inaudible), is in Municipal Court. That's in process right now.

Sadler: What happens if it goes to District Court? I mean, is it a fine, theres a, how does it ever stop?

Cruz: No sir, what would happen in District Court is we will go in and request for an injunction, there will be a hearing before the Judge, then they will make their presentation, we put on our case, and the Judge will decide whether theres merits to enjoin and order Mr. Richards to do what were asking him to do. Its strictly civil, not criminal.

Sadler: Just an order of the Judge?

Cruz: Uh huh, an order of the Judge.

Shanklin: I dont see how that will work because what if Frank doesnt even want them there himself, and then they park there?

Cruz: Hes the owner of the property.

Marley: All he has to do is post it.

Purcell: All he has to do is call.

Cruz: If you notice, its against Mr. Richards or the owner of the property.

Shanklin: I got it, lets go.

Cruz: The owner of the property will be ordered.

Marley: We do have a motion and a second to proceed with the litigation against Mr. Richards. Please call the roll.

Roll Call: AYE: Purcell, Shanklin, Beller, Green, Warren. NAY: Maples, Williams, Sadler.

Marley: That item passed five to three. (end verbatim on this item)

6. Determine whether to commence litigation against Donovan Woodburne in order to seek injunctive relief to abate a public nuisance in the vicinity of 126 NE Rogers Lane, and, if so, authorize the City Attorney to initiate legal action to abate the nuisance. EXHIBITS: NONE.

The following portion of the meeting is inserted verbatim:

Purcell: Well, I guess Im up on the hook again. This is another one of mine, except this has been going on for almost three years. The history of this, this started before I was ever elected to the Council. Mr. Glen Alford got complaints on this. He tried to have it taken care of. Mr. Woodburne, Ive talked to him four times. He absolutely refuses. There was an agreement made, there were charges brought against Mr. Woodburne in November or December 1995. It went to court, the attorneys can jump in here and help any time they want to if I say something wrong, there was some kind of agreement made between the City Prosecutor and the Judge that said if he would post it properly and if you would call people when people came there and parked, because he claims he didnt know who was doing it and he didnt know how to get them off, they would drop all the charges or do something like that, which he agreed to do, and that was dropped. He never complied. He put up one sign thats facing the back, the second sign he put up was immediately run over by one of the many 18 wheelers and its laying on the ground and it gets popped up periodically and for the last six months its laying on the ground for anyone who wants to go by. Hes just another one who will not comply. Weve got lots of charges for him. As a matter of fact, I think hes got a case coming up in September. Several cases were there. Theres 13 more cases that are coming up for pre-trial on July 30th. From what the Judge said, I hope theyre going to trial in September, so thats something like 20 cases. Again, if Dan had enough people we could be out there just about every day.

What started this issue at that particular location about two and a half years ago was they were parking tanker trucks, and of course the people thought around there that they were going to blow up. Now, I will say that after enough arguments, there are not any tanker trucks there and have not been for a good, long while, but thats what brought on the issue and the phone calls come in, when are you going to stop parking. On some weekends there may be seven 18 wheelers. It looks like a truck park at a truck stop and people are complaining. So everything else is the same and I dont need to go over it and I ask your support to do the same thing because hes not going to comply and this is an attempt to stop it as soon as possible.

Shanklin: Make your motion.

Purcell: OK, I move that we declare the area at 126 NE Rogers Lane a public nuisance and authorize the City Attorney to file for injunctive relief against Donovan Woodburne, or the property owner, in District Court.

Green: Second.

Marley: Thank you. Further comments? Please call the roll.

Roll Call: AYE: Shanklin, Beller, Green, Warren, Sadler, Purcell. NAY: Maples, Williams. MOTION CARRIED.

Marley: That item passed six to two. (end verbatim portion)

8. Discuss payment and penalties for non-payment of utility bills, and take action, if appropriate. EXHIBITS: NONE.

Shanklin said he asked for the item due to an action that happened two or three weeks ago. He said six or seven years ago, the City was trying to buy two acres of land to put the west water tower on, and at the same time, we took the water meter and made a lady come in and put up about \$150 to pay the water bill and all of it at the same time. He said she missed it in the mail and we missed receiving in the mail on the date it was due, so she had the late fee, she did not pay it the next time and that caused the City to turn the water off. Shanklin said he asked the Clerk to go through the minutes to see what the action was to see that this did not ever happen again but all it shows is that discussion was held on the practices and leeway for discretionary judgment on pulling meters, so there is nothing to show what was said, other than the fact that the intent was that we are not going to pull someones meter without letting them know, especially businesses. He said there was no cause for this other, because we did not do it in two other places in the same area, the same day, on the same list. Shanklin said they were put down to have their meter pulled but we did not do it, and on some, we did not even make them put up a deposit, but we did this individual. He said his only concern was that we do them all alike.

Shanklin said if someone drops their payment in at 5:30 and it was due that day, and we open it up the next morning, we should accept that. He said it costs more time to take care of all this than it is worth; we are not making any money from it and we are creating ill feelings and hardships. Shanklin said if the Council thinks the current procedures are fine, then we would continue to do this, but we need to give more discretion to the finance people. He said someone who has been in business for 50 years and donates to every project, and his secretary and their computer does not read it right, and we pull the meter, and that has created some hard feelings. Shanklin said we did not do them all alike. He suggested Council direct staff that anything that is in the mail, if it was postmarked on the day it was due, we should accept it, or if it is dropped at 11 p.m. or 4 a.m. but we get it at 8 a.m. when we come to work, we should accept it.

Warren said he agreed we need to treat customers equally, but not that just because someone makes donations that they deserve a break that the general public does not receive. He said he felt it should be that you pay by the 10th, or get a couple of notices, and then, we do not care who you are, we pull the meter. Warren said he also agreed that we should start going by the post marks because it is not the citizens fault that the postal services does not necessarily always get the mail delivered within the City limits of Lawton within a week to ten days.

Maples said she received a call from a lady who had paid her bill for 25 years, had never been late, she mailed it in sufficient time, but the post office did not deliver it in a timely manner, so she was charged a late fee and was very upset. She said she received a phone call late last night from an older lady who receives \$496 income total and it comes in after the due date of the water bill, so she has to pay the late penalty, an extra \$7, and that is important in that situation. Maples suggested waiving a late penalty for low income. She said she also received a call saying the people received a notice saying the water would be cut off if the bill was not paid by a certain date, so they pay on that date, but the water had been cut off that morning, so they had to pay the late penalty and a deposit to get it cut back on and they complied with the date we gave them to pay it.

Beller said his concern was discontinuing service without the knowledge of the people that are either in the home or the business. He said he felt we should personally contact the people, and tell them we are here to discontinue the service unless the bill is paid by noon, or whatever time. Beller said a few months back there was a problem with Food Lion where the water was discontinued. He said cutting off the water without telling businesses could seriously damage machines and equipment, such as ice machines. Beller said he felt we should personally notify people and make contact and if they are not going to pay the bill, then the water will be discontinued, but there are circumstances where the accountant, the bookkeeper, or whoever is in charge of the accounts, failed to do something and to just arbitrarily cut it off without further notice, it seems discretion should be given to either the people who do the cut off notices or Mr. Livingston or Mr. Carson to contact people, especially business people who for some reason may not know there is a problem.

Schumpert said the current procedure is that ten days prior to shut off, we mail them something, and two days prior to shut off, a reminder notice is delivered by the field services employee, which is a door hanger, or in the case of a business, it is taken in and handed to a person. He said after the 40 days, there is still time.

Beller asked what happened at Brittain's, if these notices were given. Schumpert said the notices were sent and

then given to someone at the establishment.

Shanklin said they operate on computers which can cause a problem. He said crews cut the water off and did not go in and tell them they were going to cut the water off. Shanklin said he had been through this at 703 Gore.

Purcell said the process is you get a bill and have 20 days to pay it; if not, a 10% fee is added and then you have another 20 days to pay; if you still do not pay the bill and 10% fee, you receive another notice saying you have 10 days to pay, and if not, we will turn the water off. Then two days prior to turn off, they are given another notice saying the water will be turned off in two days. He said it seems the City is giving pretty good notice, although he agreed that when they arrive to turn the water off, they could go in and tell them they are doing that unless they can be given a check. Purcell said the number of bills and reminders are enough for any bookkeeping department to be able to respond. Shanklin said he had 20 days in there one too many times. Purcell said there is 20 days to pay the first bill, if it is not paid, you get another 20 days. Shanklin disagreed and said they add the penalty to the next bill, and if you ignore it, then they start the procedure of ten days, then the shut off. Purcell agreed and said it is 20, 20, 10, 2, then shut off, so that is 52 days and you have notified someone in the business or home four times. Purcell said he agreed the people should be told the water is going to be turned off. Schumpert said the employee can be directed to do that, although it would be a confrontation. Schumpert said if a payment is due today, and is dropped in the box tonight, it is our policy that that counts because it is more staff time to process that than it is worth.

Shanklin said we are talking about our procedure to shut off water, and that procedure is that of Finance, and not of the Council. He said Council is condoning it, but it is not written down.

Warren suggested an amendment to say we will accept by post mark date. Schumpert asked if an ordinance revision was requested. Shanklin said he did not think the ordinance needed revision but that staff should say what the policy will be because that is what they will operate from and how it will be done by staff. Schumpert said he liked to go by the ordinances and that is not in the current ordinance, and he would like to change it to accept the post mark, because people change and the policies get forgotten and all the employees are instructed to follow the ordinance.

Maples asked if we could waive the late charge for low income. Livingston said the ordinance provides that the penalty is not placed on those accounts if they are elderly or low income, and the person Maples described would qualify for that. Schumpert said those people have to come in and tell us because we would not know they were in that situation.

Mayor Marley said he thought we should break out the residences from the businesses because it was foolish to pull a meter. Williams asked if the meters are actually removed. Schumpert said the water is first turned off, and if someone else turns it back on, the meter is removed. Mayor Marley said the businesses will not leave, although that could happen with individual residences, and he suggested that for a business, the ordinance should say that we must make contact with businesses, with the manager, supervisor, or owner, before you shut the water off. Maples said she thought we owed that courtesy to the residents if they have lived here and been paying for 20 years. Purcell said people may not be home and employees should not have to keep going back. Maples said if they are home, you could knock on the door. Schumpert said the employees are instructed to knock on the door when they put the door knocker on there. Maples said she was saying when they go to shut it off. Schumpert said that was what he was saying, we go up and see if anyone is home.

Shanklin asked if we can shut the water off if a lady is in the house with four or five kids. Schumpert said yes. Shanklin asked if that creates any liability. Schumpert said no.

Williams said you can get the payment pretty quick when you can shut the water off. He said he thought it was a pretty lenient policy. Beller asked what PSOs policy is on late payment. Williams said it is similar.

Warren said if it is split on business and residential, he would favor increasing the penalty for businesses, because those costs are part of doing business.

Mayor Marley asked if Council desired to give staff direction. Beller said he thought the current 52 days was adequate as presently shown, but prior to the actual cut off, we should attempt to make a personal contact, not just with the door knocker, but trying to reach the person if at all possible.

Schumpert said he felt the policy on deposits was odd in that if you open a business, we require you to put up a deposit, but after a year, if you pay in a timely fashion, then we give it back. He said that creates an administrative problem because sometimes it is not given back in a year and that makes people mad, and then if there is a late penalty, we have you put up another deposit. Schumpert said one of the items would be put into an ordinance for consideration and asked that we also include that a deposit be put up and that is the end of it, then the late penalties could be assessed against that and there would not be a problem. He said the business could then be sent a notice requesting a certain amount to replenish the deposit, but the water would not be turned off. Beller asked if



they would draw any interest on the deposit and Schumpert said no. Beller said he had no problem with that.

Mayor Marley said the desire of the Council appears to be for the City Manager to come up with revisions. Schumpert said the items would be the post mark, business/individual, notification, adjust penalty, and the deposit.

9. Determine whether a need exists to decide adequacy of existing fire hydrant distance spacing and if so direct the City Manager to verify location of existing hydrants and identify areas that do not meet city code. EXHIBITS: NONE.

Beller said he was one of the initiators of this request. He said the goal is to see what the existing fire protection is and if we are adequately meeting the 300 or 400 foot limit.

MOVED by Beller, SECOND by Purcell, to direct the City Manager to commence the study to determine the existing fire hydrant distance spacing and direct staff to start it.

Shanklin asked if that was not presently covered. Schumpert said we have not surveyed the fire plugs to determine if they are actually spaced as the code states. Shanklin asked if this is retroactive or for future items. Beller said right now we are going to find out what the needs are and what is in existence, and that some felt there are areas that do not currently have adequate fire protection. Shanklin asked if he was referring to new areas. Beller said no, currently developed existing areas.

Purcell asked if this would include areas that were annexed. He said there is a lack of fire hydrants in areas that were annexed. Schumpert said that would be included.

VOTE ON MOTION: AYE: Beller, Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

10. Consider adopting an ordinance amending Section 9-126, Lawton City Code, 1995, raising court cost to \$15.00. EXHIBITS: ORDINANCE NO. 97-35.

MOVED by Beller, SECOND by Williams, to approve Ordinance No. 97-35, with an effective date of September 1, 1997, waive the reading of the ordinance and read the title only.

(Title read by Clerk) ORDINANCE NO. 97-35

AN ORDINANCE RELATING TO MUNICIPAL COURT COST, AMENDING SECTION 9-126, CHAPTER 9, LAWTON CITY CODE, 1995, INCREASING AMOUNT OF COURT COSTS, AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION: AYE: Green, Warren, Williams, Sadler, Purcell, Shanklin, Beller. NAY: Maples. MOTION CARRIED.

11. Consider adopting a resolution authorizing nationally recognized credit cards as a method of payment for court fines, bonds, fees and costs and establishing a Municipal Court Credit Card Maintenance Account. EXHIBITS: RESOLUTION NO. 97-90.

MOVED by Purcell, SECOND by Warren, to approve Resolution No. 97-90. AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-90

A RESOLUTION OF THE CITY OF LAWTON, OKLAHOMA, ESTABLISHING THE MUNICIPAL COURT CREDIT CARD MAINTENANCE ACCOUNT.

12. Consider approving a resolution amending Resolution No. 97-82 amending the date for regular full time employees at Step M to receive an additional salary increase. EXHIBITS: RESOLUTION NO. 97-91.

Schumpert said when this was approved by Council, the interpretation was the date to use on Step M employees was June 30, 1996, which would impact those who had gone at least a year without any type of increase. He said questions were raised so he checked with the initiator of the action and found the intent was that anyone in Step M as of June 30, 1997, would be affected. Schumpert said this will affect an additional eight employees, and the question is whether the intent of Council was to use the date of June 30, 1996, or 1997.

Purcell said his intent was that it be anyone who was in Step M at the end of last year, and Council had discussed 20 employees, but the resolution applied to only 12. Funds were included in the budget for the 20 employees and Purcell said his intent was that it apply to all 20 of those employees.

MOVED by Purcell, SECOND by Warren, to approve Resolution No. 97-91 amending Resolution No. 97-82 amending the date of regular full time employees to receive an additional salary increase. AYE: Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-91

A RESOLUTION AMENDING RESOLUTION NO. 97-82 AMENDING THE DATE FOR REGULAR FULL TIME EMPLOYEES AT STEP M TO RECEIVE AN ADDITIONAL SALARY INCREASE.

CONSENT AGENDA:

ITEM 13 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

14. Consider the following damage claim recommended for approval: David and Pamela Westfall. EXHIBITS: LEGAL OPINIONS/RECOMMENDATIONS. Action: Approve claim in the amount of \$70.00.

15. Consider adopting a resolution ratifying the action of the City Attorney in filing and making payment of the judgment in the Workers Compensation case of Juan F. Ayala in the Workers Compensation Court, Case No. 95-3390 R. EXHIBITS: RESOLUTION NO. 97-92.

(Title only) RESOLUTION NO. 97-92

A RESOLUTION RATIFYING THE ACTIONS OF THE CITY ATTORNEY IN MAKING PAYMENT OF THE JUDGMENT IN THE WORKERS COMPENSATION CASE OF JUAN F. AYALA FOR THE AMOUNT OF TWENTY THOUSAND, NINE HUNDRED NINETY-TWO DOLLARS (\$20,992.00), PER ORDER OF THE WORKERS COMPENSATION COURT, AND FILING A FOREIGN JUDGMENT IN THE DISTRICT COURT OF COMANCHE COUNTY FOR PURPOSES OF PLACING SAID JUDGMENT ON THE TAX ROLLS.

17. Consider authorizing the City Planner to execute, on behalf of the Community, an application to the Federal Emergency Management Agency (FEMA), for a Letter of Map Revision (LOMR), for Nine Mile Creek Tributary adjacent to Pebble Creek Addition. EXHIBITS: LETTER FROM LANDMARK ENGINEERING; LOCATION MAP. Action: Approval of item.

18. Consider entering no objection to a permanent closure of the North 4.3 feet by 100 feet of NW Ferris Avenue right of way adjacent to 513 NW 1st Street and authorize the City Attorney to enter no objection to the closure in district court. EXHIBITS: NONE. Action: Enter no objection to the closure of the 4.3 feet by 100 feet strip of the Ferris Avenue right of way adjacent to 513 NW 1st Street and authorize the City Attorney to enter no objection to the permanent closure in Comanche County District Court, Case No. CJ-97-759.

19. Consider accepting a twelve inch (12") water line project, a utility easement, and a maintenance bond from Comanche County Rural Water District No. 3. EXHIBITS: AREA LOCATION MAP; MEMORANDUM FROM SENIOR CIVIL ENGINEER. Action: Accept the twelve inch (12") line project, a utility easement from J.C. and Exma Kimbro, and a maintenance bond from Comanche County Rural Water District No. 3.

20. Consider approving plans and specifications for Fire Station #4 and Fire Station #7 Emergency Vehicle Exhaust Ventilation System Project 97-15 and authorizing staff to advertise for bids. EXHIBITS: LOCATION MAPS. Action: Approval of item.

21. Consider approving plans and specifications for the East Elevated Tank and Industrial Elevated Tank Painting Project 97-11 and authorizing staff to advertise for bids. EXHIBITS: NONE. Action: Approval of item.

22. Consider approving plans and specifications for the Water Treatment Plant North Clarifier and Backwash Storage Tank Painting Project 97-12 and authorizing staff to advertise for bids. EXHIBITS: NONE. Action: Approval of item.

23. Consider accepting the South Water Treatment Plant Paint Project 97-7 as constructed by Kinard Painting and placing the maintenance bond into effect. EXHIBITS: NONE. Action: Approval of item.

24. Consider approving an agreement with Comanche County Memorial Hospital to carry out the Area Prevention Resource Center (not Y.E.T.) Project. EXHIBITS: NONE. Action: Approval of item.

25. Consider approving an agreement with Comanche County Memorial Hospital to carry out the Youth Employment Project. EXHIBITS: NONE. Action: Approval of item.

26. Consider approving an agreement with the North Side Chamber of Commerce to provide assistance to minorities in starting new businesses in the City of Lawton. EXHIBITS: NONE. Action: Approval of item.

27. Consider authorizing the City Manager to renew Police/Fire line of duty accidental death insurance for policy year October 1, 1997 to October 1, 1998. EXHIBITS: NONE. Action: Authorize the City Manager to renew the Police/Fire line of duty accidental death policy with Zurich American through Alexander and Alexander agency for October 1, 1997 to October 1, 1998.

28. Consider approving transfer of funds from the Planning Department to Code Administration to pay final FY 96-97 salaries. EXHIBITS: NONE. Action: Approve transfer of \$9,705.40 from the Planning Department to Code Administration to pay final FY 96-97 salaries.

29. Consider awarding contract for adult softball t-shirts. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Award contract to T & S Printing, Inc., Lawton, OK, and authorize execution.

30. Consider awarding contract for refuse collection trucks. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMEND. Action: Award contract for refuse collection trucks (Items 1, 2a, 2b, and 2c, and the option for transverse torque rods for rear suspension) to Total Truck & Trailer, Norman, OK, and authorize execution.

31. Consider awarding contract for elevator maintenance. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Award contract to Dover Elevator Company, Oklahoma City, OK, and authorize execution.

32. Consider awarding contract for dry dog food. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Award contract to Mt. Scott Feed & Seed, Lawton, OK, and authorize execution.

33. Consider awarding contract for computer workstations. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Award contract to MBF Corporation, Lawton, OK, and authorize execution.

34. Consider awarding contract for public safety portable radios. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Award contract for public safety radios with optional three-year warranty to Lawton Communications, Lawton, OK, and authorize execution.

35. Consider awarding contract for installation of floor tile. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMEND. Action: Award contract to Mike Grooms Floor Covering, Lawton, OK, and authorize execution.

36. Mayors Appointments. EXHIBITS: NONE.

HUMAN RIGHTS & RELATIONS COMMISSION:

Jeffrey Schulte, Handicapped Rep., Term: 7/22/97 to 9/30/98

COUNCIL COMMITTEE ON OUTSIDE WATER SALES:

Jeffrey Sadler

37. Consider approval of payroll for the period of July 14 through July 27, and July 28 through August 10, 1997. EXHIBITS: NONE.

Mayor Marley said a request to speak had been received on Item 13.

Maples said Items 31 and 34 seem to be low amounts to have advertised the items for bid, and are under \$1,000, with one being \$100, and that takes a lot of staff time. Williams said some are where staff calls in for the service as needed. Schumpert said the amount over a year could be more than the bid level amount of \$2,000, depending on the number of times the service is required.

MOVED by Shanklin. SECOND by Warren, to approve the Consent Agenda items as recommended with the exception of Items 13 and 16. AYE: Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

13. Consider the following damage claims recommended for denial: Hollis and Barbara Anderson; and, Nick A. Patrizi. EXHIBITS: LEGAL OPINIONS/RECOMMENDATIONS.

Cruz said Mr. and Mrs. Anderson were at Lake Lawtonka camping, and apparently there was a problem with the electrical system. He said it appeared a ground wire had been burned off, caused by either an electrical surge or lightning, and that in turn caused improper grounding and damage to some of their appliances. He recommended denial stating the electrical system belongs to Cotton Electric, that damage could have been caused by lighting, and that prior to this incident, there was no notice of any problem with the electrical system at the camp site.

Council agreed to receive comment from Mr. Anderson.

Hollis H. Anderson, Cyril, Oklahoma, said some of the things he did not get into the claim he explained yesterday to the City Attorney and the response was to bring it before the Council tonight. He said they checked the voltage at the riser at the shelter three different times and it was 114 volts, and we did not catch the surges that were coming through. Anderson said that Bob, the park maintenance man, did catch the surges which were 180 to 240 volts, and

there were no electrical storms that week. He said the weather was extremely cool following Memorial Day.

Anderson said he contacted Cotton Electric to see if it was their responsibility and their response was that the inspector who goes out for them and does their work said it was a loose ground connection that caused the problem and it was in the fuse box, which would be the City of Lawtons part, and not theirs. He said he talked to Ms. Patton at Cotton Electric this morning.

Anderson said on July 12 they were back out there, and the breaker box that had the problem caught fire and had to be put out with a fire extinguisher; the flames were two and three feet high. He said there was no damage to trailers that day because the fuses had blown instead of the ground wire. Anderson said they tried two different camp sites thinking it was their trailer, and that he unplugged different things thinking it was his trailer, but two other trailers began to have problems also, so the maintenance man was called. Anderson said they had checked the risers at the shelters and they showed 114 volts because they did not catch the surges. He said he felt justified in making this claim.

Shanklin said the last sentence of the legal opinion states it does not appear the liability exists, and that he was inclined to pay it. Cruz said the recommendation of denial is based on the fact that there was no prior notice of any defect, if any, and also that it was suspected that damage was caused by lightning or some other sources, but the electricity was not ours. Shanklin said we allowed him in there and took his money and he plugged.

Beller said the amount is \$1,002.41 and asked if that was the actual cost of replacement. Anderson said he took the trailer to Glass RV in Chickasha and there was a circuit board that was almost \$400, and that determines whether it is 6 volt, 12 volt, gas or electric, it automatically goes from one to the other, and it must have that board to operate. Shanklin asked the model. Anderson said it is a 1984 Holiday.

Maples said there was a fire on July 12 and that would appear to be a notice. Cruz said that was brought up yesterday when Mr. Anderson called, but this claim was from a May 1997 incident. Maples said her point was that it was still not fixed. Cruz said he would have to check with Parks & Recreation on whether it has been repaired. Anderson said it has been repaired, within 2-1/2 hours they put in a new breaker box, wiring and everything from the meter down.

Shanklin asked if actual bills were turned in on this claim. Cruz said an itemized statement was submitted.

Purcell asked if a loose ground wire had been found on the Citys box, would the recommendation have been different. Larry Johnson, Assistant City Attorney, said if we would have known that prior to this claim. He said he viewed it like a sewer back up, if we put a sewer system in and it has been operating fine, we have no notice of a problem, then it gets locked up, we do not pay on that claim. Johnson said if a claim comes in after that, such as in this case if we receive a claim relating to the July 12 incident, that would be one to look at for prior notice of a problem, but his inclination would be not to pay it because there was no notice the system was not working properly prior to Mr. Andersons claim.

Williams asked who replaced the breaker box. Anderson said Cotton Electric. Anderson said it was the Citys breaker box, the City maintenance people brought the breaker box and wiring. Anderson said there were several people camping there July 12 and there was no damage caused then. Anderson said he felt that Cotton Electric accommodated the City of Lawton by putting that box up and wiring it up for the City and that he appreciated it.

Maples asked if Anderson was the only one that received damage. Anderson said no, there were two others; one lives in Hydro and he was going to get an attorney but that he (Anderson) said to go this route first, and he called him Monday to see if he had done anything on it and he said he had been too busy and had to get on it. Maples asked if there were three claims in the same time frame, would we deny the first one that submitted the claim and pay the other two, or deny all of them. Cruz said deny all of them. Maples said it came to our attention and the problems continued even until this month.

MOVED by Maples, SECOND by Shanklin, to pay the claim.

Johnson asked that the claim be tabled since Anderson had testified the camper is a 1984 model. He said if the claim is to be paid, it would be appropriate to depreciate the appliances that were damaged the same way we do carpeting and other similar claims.

Anderson said these were not replaceable, new items; these were the costs of fixing the items that were damaged.

SUBSTITUTE MOTION by Williams, SECOND by Warren, to table the claim until the next meeting. AYE: Sadler, Warren, Williams. NAY: Purcell, Shanklin, Beller, Green, Maples. SUBSTITUTE MOTION FAILED.

Cruz said due to the amount, a resolution would be needed to approve the claim.

SUBSTITUTE MOTION by Shanklin, SECOND by Maples, to adopt Resolution No. 97-33 and pay Mr. Hollis Anderson the damages that have been itemized. AYE: Purcell, Shanklin, Beller, Maples, Sadler. NAY: Green, Warren, Williams. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-93

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST HOLLIS AND BARBARA ANDERSON IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE AMOUNT OF ONE THOUSAND, TWO DOLLARS AND 41/100s (\$1,002.41).

Mayor Marley said the other damage claim included in Item 13 is from Mr. Patrizi. Maples said if this would have been a private citizen that ran into someones car, that persons insurance would have paid this claim. She said simply because the City is self insured, it should not have the right not to pay the claim.

MOVED by Maples, SECOND by Beller, to pay this claim at \$1,358.55, and adopt the resolution to do so. AYE: Shanklin, Beller, Maples, Sadler, Purcell. NAY: Green, Warren, Williams. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-94

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST NICK A. PATRIZI IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE AMOUNT OF ONE THOUSAND, THREE HUNDRED FIFTY-EIGHT DOLLARS AND 55/100s (\$1,358.55).

16. Consider authorizing the City Planner to execute, on behalf of the Community, an application to the Federal Emergency Management Agency (FEMA), for a Letter of Map Revision (LOMR), for Wratton Creek Tributary adjacent to Heritage Hills Addition. EXHIBITS: MEMORANDUM FROM SENIOR CIVIL ENGINEER.

Shanklin asked why this was being done by the City at the Citys expense, instead of the land owner doing this. Schumpert said this is the place where the City built two bridges, so the Citys actions are what resulted in the need for this being done. Shanklin asked if this had already been done and staff knew it some time ago. Schumpert said he did not know that we thought that far ahead, but when the two bridges were enlarged, we saw that it would have an effect on the maps. Schumpert said the Citys actions caused the change.

MOVED by Shanklin, SECOND by Beller, to approve Item 16. AYE: Beller, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. OUT: Green. MOTION CARRIED.

BUSINESS ITEM:

38. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending lawsuit styled Clifford Dossey and Mildred Dossey v. City of Lawton, Case No. CJ-97-741, in the District Court of Comanche County, and take appropriate action in open session. EXHIBITS: NONE.

39. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending civil suit styled J.M. vs. City of Lawton, et al., Case No. CIV-95-231-L, in the United States District Court for the Western District of Oklahoma, and, if appropriate, take action in open session. EXHIBITS: NONE.

40. Pursuant to Section 307B1, Title 25, Oklahoma Statutes, consider convening in executive session to evaluate the employment performance of Mr. Gilbert H. Schumpert, Jr. as City Manager. EXHIBITS: NONE.

MOVED by Williams, SECOND by Warren, to convene in executive session as shown on the agenda. AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. OUT: Green. MOTION CARRIED.

The Mayor and Council convened in executive session at 8:15 p.m. and reconvened in regular, open session at 9:15 p.m. with all members present upon roll call.

Cruz reported the Mayor and Council met in executive session to consider three items. He said Item 38 relates to the annexation lawsuit and the Mayor and Council were informed as to the status and background of the case. Cruz said Item 39 relates to the J.M. v. City case and the trial is scheduled in federal court starting August 11. No action is needed in open session.

Mayor Marley reported Item 40 relates to the mid-term evaluation of the City Manager, who was given some ideas of wisdom by Council members. He congratulated Schumpert for his performance during this period of time.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Shanklin said last Saturday he watched the water crew with a new backhoe, dump truck and pump, make repairs to

a line at 11th and Ferris by Laird. He said he was impressed with the expertise, and the equipment that had been provided. Shanklin said the action of the \$3 for the rolling stock to provide equipment to the crews was one of the best things the Council had done. Williams said the Ward Two residents appreciated the timely repair of that line, and that he hoped the Council would look further into making repairs to the lines throughout the City.

Maples asked the status of the ordinance on fines for weed abatement. Cruz said that ordinance, as well as an ordinance requested by Warren, would be on the next agenda hopefully.

Schumpert said Council indicated a desire to hold a special meeting on Wolf Creek drainage. Meeting was scheduled for Tuesday, July 29 at 5:00 p.m.

Shanklin asked if a special meeting would be held in September on the landfill and mulching, and if data was being gathered in that regard. Schumpert said yes and staff had indicated they could not meet that time line. Schumpert said he received a call this afternoon from Ms. Maxwell with DEQ and she indicated it appeared that EPA would go with the plan allowing us to phase the sewer rehabilitation. Schumpert said she requested we submit them details on how we would accomplish the first phase, which was shown for six or seven years, and was also guardedly optimistic that EPA would allow DEQ to take over the case. Schumpert said if that is not done, there would likely be dual consent orders.

Mayor Marley said a builders meeting was held last March and they were to be held quarterly for purposes of determining how things are going and communicating. He said another meeting would be held July 31 at 3 p.m. in the Library. Mayor Marley said anyone is welcome to attend and it will be publicized, but letters would be sent only to the 50 or so people who attended the meeting.

Beller asked if anything had been accomplished or implemented as a result of that meeting. Schumpert said the ordinance was adopted that Ms. Maples committee worked on, and some things are being done. Schumpert said part of the meeting is to gain communications. Beller said it seems a lot of concern was expressed about the plans processing, and that would have more to do with policies and personnel. Schumpert said yes and no, and it had to do with checking with other cities about their policies. Beller asked if there are still horror stories. Mayor Marley said he had not heard any and that Council receives a report on status. Schumpert said a report is also provided on subdivisions.

Beller said he heard that if you do work for Vo Tech you do not have to have certain permits, or do not pay for them. Schumpert said you do not have to pay for them, but you have to have them. Maples said that is a state agency. Schumpert said the school system is the same way.

Williams said he thought the plans examiner was the result of the meeting, and that everything was identified on every project, large or small. Maples said there had been problems with interpretation and the director was able to take care of those. Beller said major building developments are coming about with Bar-S and the prison, and those should be anticipated. Schumpert said very large contractors come in for such projects, ask which codes we have, and there are not problems with them. They were very pleased with Lawton having a meeting with them and involving everyone who should be involved at one time.

Purcell asked if anyone could report on Cracker Barrel. Mayor Marley said there were only rumors.

Green said the Habitat has started building and four sites were selected in Lawton View. The group is looking for volunteer labor. She invited everyone to the Western District Missionary Baptist Association meeting beginning August 4 at 1504 Roosevelt.

Williams said one of the departmental initiatives that was adopted dealt with engineering inspection fees. He said he received a call today from Keegan Ledford who indicated that a project he already had on-going, he was told there would be no more inspections until he paid fees. Williams said he did not think it should apply to projects which were already underway when Council adopted that ordinance, and asked the City Manager to check on it.

There was no further business to consider and the meeting adjourned at 9:30 p.m.